

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4528 of 2018

ORDER:

On the ground of petitioner constructed a building encroaching the Gram Panchayat road leading to Gurramkodu Puntha in R.S.Nos.1 to 99, respondent No.4 - Panchayat Secretary, West Vipparru Gram Panchayat, Pentapadu Mandal, West Godavari District, issued a Notice, dated 20.01.2018, to the petitioner directing him to vacate and remove the building within 7 days from the date of receipt thereof. The same is challenged in this writ petition.

It is the specific case of the petitioner that the property is situated within the jurisdiction of respondent No.5 – Panchayat Secretary, Kakarlamudi Gram Panchayat, Untuguru Mandal, West Godavari, and the same is evident from the fact that the petitioner has been paying taxes and are being accepted by respondent No.5 from time to time. It is also the case of the petitioner that without giving any prior notice calling for his explanation, respondent No.4 directly issued the impugned notice granting seven days time to vacate and remove the building in question.

Learned counsel for the petitioner submits that the petitioner has been living in the building in question over the years and the same is his ancestral property.

Learned Standing Counsel for West Vipparru and Kakarlamudi Gram Panchayats appearing for respondent Nos.4

and 5 fairly submits that no prior notice was issued to the petitioner, as such, the petitioner may be permitted to submit explanation to the impugned notice by treating it as a show cause notice, and thereafter, the Gram Panchayat would consider the same and only thereafter, necessary action would be taken.

Having considered the above submissions and since the petitioner raised a ground that no prior notice was issued giving an opportunity to him to submit explanation, the writ petition is disposed of permitting the petitioner to submit his explanation to the impugned notice, by treating it as a show cause notice, within two weeks from the date of receipt of a copy of this order, and directing respondent No.4 to consider such explanation including the objection of the petitioner that respondent No.4 lacks jurisdiction to issue such notice on the ground that the property is situated within the territorial jurisdiction of respondent No.5 and to pass appropriate orders within eight weeks thereafter. Till such time, no coercive steps shall be taken against the petitioner.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:14.02.2018

kdl

